WPMS No. 245 of 2003

Hon'ble P.C. Verma, J.

Heard learned counsel for the parties.

The substitution application is allowed to which the learned counsel for the respondents has no objection. Let the necessary substitution be incorporated during the course of day.

This petition has been filed by the petitioner, who has been substituted by the legal heirs, seeking a writ of mandamus to command the respondents to refer the matter under sec. 4k-k of the Industrial disputes Act raised by the petitioner.

The earlier rejection order was passed for the reason that the petitioner was found guilty of misconduct at the time of duty.

Therefore his services were terminated. This question as to whether the petitioner was found guilty of misconduct and opportunity was given to the petitioner before terminating his services was to be determined by the Labour Court. For this reason, it could not have been said by the State Government that there did not effect any dispute by impugned order. The reference has been refused on the ground that earlier it had already been refused.

Therefore, both the orders can not be sustained in the eye of law. The orders are hereby quashed. The State Government is directed to make a reference under sec. 4-k of the Industrial disputes Act for determination by the Labour Court.

The petition is disposed of with the aforesaid observations.

(P.C. Verma, J.)

26.9.2003